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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

DEC 28 2007

Application Number: 09/895,932
Filing Date: June 29, 2001
Appellant(s): BROWN ET AL.

GROUP 3600

Amy J. Pattillo
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 8, 2007 appealing from the Office action mailed May 2, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US Patent 7,089,203 B1 to Crookshanks

Robert Frank. "Asian jewelers carry on tradition in Little Saigon clients prefer to design rings, merchants say." Orange County Register. Santa Ana, California: August 10, 1989.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-2, 4-6, 8-10, 12-14, 16-18, 20-22 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,089,203 B1 to Crookshanks (further referred to as Crookshanks), and further in view of "Asian jewelers carry on tradition in Little Saigon, Clients prefer to design rings, merchants say" by Robert Frank (further referred to as Frank).

Regarding claims 1-2, 8-10, 16-18 and 24-25, Crookshanks disclose a method, system and computer readable medium with instructions for coordinating a plurality of

local and remote manufactures for a manufacturing order (Figures 21-23; column 1, lines 35-40; column 3, lines 15-24), said method comprising the steps of:

Facilitating, by at least one broker server (column 10, lines 55-64; column 14, lines 7-10; column 21, lines 4-15; column 27, lines 31-38), user selection of a customized manufacturing order for a product to be manufactured, after placement of the customized manufacturing order, by a particular local manufacturer selected by a user from among a plurality of local manufacturers (column 21, line 65 – column 22, line 2; column 23, lines 7-14; column 27, line 48 – column 28, line 3);

Dividing, by said broker server, a customized manufacturing order for the user into a plurality of manufacturable parts (Column 10, lines 21-30; column 16, lines 57-66; column 28, lines 23-30);

Submitting, by said broker server, a local bid request for the manufacturing order to a plurality of local manufacturers (column 26, lines 9-11; column 28, lines 23-30);

Receiving, by said broker server, at least one local bid for the manufacturing order from at least one of a plurality of local manufacturers specifying a selection of a plurality of manufacturable parts required to be manufactured by a remote manufacturer for at least one of a plurality of local manufacturers to produce the customized manufacturing order (column 26, lines 9-11; column 16, lines 57-66; column 28, lines 47-67);

Submitting, by said broker server, a remote bid request to a plurality of remote manufacturers for a selection of a plurality of manufacturable parts as requested in the at least one local bids (column 26, lines 12-15; column 28, lines 57-67);

Responsive to said broker server receiving at least one remote bid for at least one of the selection of the plurality of manufacturable parts, compiling, by the broker server, the at least one local bid and the at least one remote bid into a plurality of display options to enable the user to select said particular local manufacturer (column 9, lines 21-24; column 10, lines 21-30; column 13, lines 29-42; column 29, lines 17-31)

Responsive to the broker sever receiving a selection by the user of said particular local manufacturer controlling, by said broker server, placement of said customized manufacturing order with said particular local manufacturer (column 29, lines 22-31).

Crookshanks does not disclose:

wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products;

selecting at least one particular remote manufacturer from among the plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local manufacturer;

based on selection of remote manufacturer, placement of a customized manufacturing order with a remote manufacturer.

However, Frank discloses:

wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products (page 2);

selecting at least one particular remote manufacturer from among the plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local manufacturer (page 2);

based on selection of remote manufacturer, placement of a customized manufacturing order with a remote manufacturer (page 2).

It would be obvious to one of ordinary skill in the art to adapt the selection of remote manufacturers for assembly of a customized product at a local manufacturer where a customer is able to watch the assembly of components received from remote manufacturers as disclosed by Frank with the compilation of bids from remote and local suppliers supplied to a broker server as disclosed by Crookshanks. The motivation would be for a user to take advantage of reviewing all of the submitted and system-stored bids in order to receive the components of the user's choosing rather than the components of the local manufacturer's choosing and for the user to help monitor costs.

Regarding claims 4-5, 12-13 and 20-21, Crookshanks discloses providing the user with a plurality of available products, attributes, variables from which selection can be made, and wherein a graphical representation and a cost estimate of the manufactured order is provided based on user selection (column 4, lines 11-19 and lines 48-54; column 9, lines 21-25; column 10, lines 21-30; column 12, lines 25-32; column 16, lines 57-67; column 18, lines 17-33; column 26, lines 1-3; column 27, line 48 – column 28, line 38).

Regarding claims 6, 14 and 22, Crookshanks does not specifically disclose analyzing the customized manufacturing order for integrity and in response to finding any integrity flaws, providing the user with suggestions for adjustment. However, Crookshanks discloses where an array of interested parties from the project's start to finish have access to the central sever such that plans can be reviewed and progress tracked, etc., including such representatives as contractors, subcontractors, architects, insurers, permitting and inspecting agencies, engineering (column 5, lines 39-47; column 13, lines 29-37; column 27, lines 32-38) and it would be against these parties legal and moral interests as well as professional moral codes to sign of on drawings and specifications without analyzing the details for integrity flaws and then notifying the owner in order for modifications to be made.

(10) Response to Argument

The Appellant's arguments have been considered but are not persuasive.

First, Appellants have argued that there is no suggestion or motivation in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify Crookshanks, to modify Frank, or to combine Crookshanks with Frank to teach each and every element of claims 1, 10 and 18. Examiner respectfully disagrees. In response to Applicant's argument that it would not have been obvious to modify the cited prior art reference(s) to create the claimed invention, the Courts have stated that "[w]hen a work is available in one field of endeavor, design incentives and

other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill." KSR Int'l Co. v. Teleflex, Inc. 127 S. Ct. 1727, 1740, 92 USPQ2d 1385, 1396 (2007).

In the instant case, the cited prior art references were available in the field at the time of the purported invention. The Applicant merely implemented a predictable variation of these existing methods in establishing his/her own invention. Such predictability is based upon the fact that each incorporated method performs the same function and provides the same utility as originally intended in their pre-combination state.

In the present application, Crookshanks discloses a computerized system of obtaining bids from contractors and subcontractors for customizable products for which the individual desiring the customized product is able to view and participate in each step of the process through the central host system. The Frank reference discloses an automated system for achieving a customized product through which an individual reviews customized pieces at various remote locations before bringing the pieces to a local establishment to have the pieces assembled, at which time the individual takes the customized piece home without requiring any delivery. Both elements as claimed in the present application are available and disclosed by Crookshanks and Frank, one an

automated system for bids for customized work, the other a manual process for customized work. Therefore, the disclosures of Crookshanks and Franks are related in the field of endeavor of customized manufactured products and are appropriately combined.

Further, Appellant argues that Frank teaches away from a modification which would automate the ring purchasing process. While Frank discloses shopping in person for a particular item, it would be obvious that a computer system, via a network such as used in the selection of customized products by a user as disclosed in Crookshanks, could be used to shop for a particular item as well as the manual process as disclosed by Frank. A web site can include any number of descriptions, photos, reviews, etc. which enables one to make a customized purchase without being required to traverse locals near and far. Automating a known system, and the lack of patentability therein, has been addressed by *In re Venner*, 262 F.2d 91, 95, 1209 USPQ 193, 194 (CCPA 1958).

Appellants further suggest that Crookshanks and Frank, separately or in combination, to not teach or suggest the element of "responsive to said broker server receiving a selection by said user of said particular local manufacturer and said at least one particular remote manufacturer, controlling, by said broker server, placement of said customized manufacturing order with said particular local manufacturer and placement of at least one separate order with said at least one particular remote manufacturer for said selection from among plurality of manufacturable parts required by said particular local manufacturer to produce said customized manufacturing order."

As noted in the Appeal Brief, the Final Office action cited Crookshanks as disclosing elements related to responsive to said broker server receiving a selection by said user of said particular local manufacturer...controlling by said broker server, placement of said customized manufacturing order with said particular local manufacturer, and Frank as disclosing the elements related to receiving a selection of at least one particular remote manufacturer and placement of at least one separate order with a particular remote manufacturer for a part required by the local manufacturer to produce the customized manufacturing order.

Related to the obviousness of this rejection, Appellant argues that it would not be obvious to combine Crookshanks and Frank because Frank does not disclose a remote manufacturer. Examiner respectfully disagrees. Frank discloses where a user visits several remote manufacturers for customized pieces before visiting a local manufacturer. As the individual stands and watches and waits while the assembler assembles the pieces of the ring (in the case of Frank) for a customized product, the location from which the individual manufactured parts were obtained are remote. The pieces are not all obtained from the ring assembler, but rather from remote suppliers of diamonds and remote suppliers of rings. Frank, therefore, discloses remote manufacturers of components required for the final assembly of a customized manufactured product. The selection of a particular diamond(s) and a particular ring, for example, triggers an order for that particular diamond(s) or ring such that the diamond(s) and ring may be delivered to an assembler of the separate products for a complete and final customized product. Appellant also argues that there is no indication

that the ring has to be ordered. However, Frank discloses that the ring may either be bought from the assembler, or that the individual may buy the ring from another vendor and then bring the diamond or diamonds and the ring to an assembler who will assemble the pieces into a customized finished product.

Crookshanks discloses the use of a computerized system by which an individual may order and select contractors for customized manufacturing, and where a selection of the local manufacturer is made by the individual making the purchase. The examiner asserts that the obviousness of the combination of Crookshanks and Frank references renders the claim limitations of the present application obvious. Crookshanks discloses the means and methods by which an individual uses a computer system for selection of local manufacturers of customized goods, and where the local manufacturers obtain quotes from sub-contractors for specific components and parts. Frank discloses an individual making selections from remote manufacturers of customized parts. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the computerized system of Crookshanks for selection of customized products wherein local manufacturers are selected by the purchasing individual, to include the selection of the subcontractors that are also part of the Crookshanks system by the purchasing individual. Both elements – selection of local and remote component suppliers - are old and well known, and it would be obvious to use the computerized system of Crookshanks to facilitate both selection of local and remote product manufacturers.

(11) Related Proceeding(s) Appendix

No decision rendered by a court of the Board is identified by the examiner in the Related Appeals and Interference section of the Examiner's Answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Jennifer Liversedge

Examiner, Art Unit 3692

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Andrew Fischer for
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